

U.S. Patent and Trademark Office, Commerce

§41.31

Board member, or with a Board employee assigned to the proceeding, is not permitted.

§41.12 Citation of authority.

(a) For any United States Supreme Court decision, citation to the United States Reports is preferred.

(b) For any decision other than a United States Supreme Court decision, citation to the West Reporter System is preferred.

(c) Citations to authority must include pinpoint citations whenever a specific holding or portion of an authority is invoked.

(d) Non-binding authority should be used sparingly. If the authority is not an authority of the Office and is not reproduced in the United States Reports or the West Reporter System, a copy of the authority should be provided.

[76 FR 72296, Nov. 22, 2011]

§41.20 Fees.

(a) *Petition fee.* The fee for filing a petition under this part is: \$400.00.

(b) *Appeal fees.* (1) For filing a notice of appeal from the examiner to the Patent Trial and Appeal Board:

By a micro entity (§1.29)	\$200.00
By a small entity (§1.27(a))	400.00
By other than a small or micro entity	800.00

(2)(i) For filing a brief in support of an appeal in an application or *ex parte* reexamination proceeding: \$0.00.

(ii) In addition to the fee for filing a notice of appeal, for filing a brief in support of an appeal in an *inter partes* reexamination proceeding:

By a micro entity (§1.29)	\$500.00
By a small entity (§1.27(a))	1,000.00
By other than a small or micro entity	2,000.00

(3) For filing a request for an oral hearing before the Board in an appeal under 35 U.S.C. 134:

By a micro entity (§1.29)	\$325.00
By a small entity (§1.27(a))	650.00
By other than a small or micro entity	1,300.00

(4) In addition to the fee for filing a notice of appeal, for forwarding an appeal in an application or *ex parte* reexamination proceeding to the Board:

By a micro entity (§1.29)	\$500.00
By a small entity (§1.27(a))	1,000.00
By other than a small or micro entity	2,000.00

[78 FR 4290, Jan. 18, 2013]

Subpart B—*Ex Parte* Appeals

§41.30 Definitions.

In addition to the definitions in §41.2, the following definitions apply to proceedings under this subpart unless otherwise clear from the context:

Applicant means either the applicant in a national application for a patent or the applicant in an application for reissue of a patent.

Evidence means something (including testimony, documents and tangible objects) that tends to prove or disprove the existence of an alleged fact, except that for the purpose of this subpart *Evidence* does not include dictionaries, which may be cited before the Board.

Owner means the owner of the patent undergoing *ex parte* reexamination under §1.510 of this title.

Proceeding means either a national application for a patent, an application for reissue of a patent, an *ex parte* reexamination proceeding, or a trial before the Patent Trial and Appeal Board. Appeal to the Board in an *inter partes* reexamination proceeding is controlled by subpart C of this part.

Record means the items listed in the content listing of the Image File Wrapper of the official file of the application or reexamination proceeding on appeal or the official file of the Office if other than the Image File Wrapper, excluding amendments, Evidence, and other documents that were not entered. In the case of an issued patent being reissued or reexamined, the *Record* further includes the *Record* of the patent being reissued or reexamined.

[69 FR 50003, Aug. 12, 2004, as amended at 76 FR 72296, Nov. 22, 2011; 77 FR 46630, Aug. 6, 2012]

§41.31 Appeal to Board.

(a) *Who may appeal and how to file an appeal.* An appeal is taken to the Board by filing a notice of appeal.

(1) Every applicant, any of whose claims has been twice rejected, may